IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

O R D E R

S.B. CIVIL WRIT PETITION NO.693/1996
(Municipal Council Vs. Ramesh Kumar & Ors.)

Date of order : 7.12.2007

P R E S E N T

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. G. Vaishnawa, for the petitioner.
Mr. D.K. Parihar, for the respondent No.1.
Mr. S.N. Tiwari, Dy. Govt. Advocate.

By way of filing the present writ petition, the petitioner-Corporation has challenged the award dated 18.12.1992 passed by Labour Court, Bikaner whereby the Judge, Labour Court has passed the award for promotion of non-petitioner workman from the date when his junior person – Karnail Singh was promoted.

This ex-parte award was passed by Judge, Labour Court, Bikaner though reply was filed by the petitioner-Corporation but later on nobody appears before the Judge, Labour Court, therefore, ex-parte award was passed.

In this case, the petitioner-Corporation has challenged the award impugned solely on the ground that the non-petitioner-workman is not possessing the qualification for the post of LDC.

Though various grounds are raised by the petitioner-Corporation but upon perusal of the award passed by Judge, Labour Court, it is obvious that the Judge, Labour Court has considered the claim of the non-petitioner workman on the basis of the evidence on record, so also, decided the matter in accordance with the Rajasthan Municipal Act, 1959. It is true that for promotion on a particular post, the qualification prescribed for should be possessed by the incumbent who is claiming promotion and nobody can be promoted, if he is not possessing basic qualification for promotion which is prescribed for the post. Therefore, while upholding the award dated 18.12.1992 passed by Judge, Labour Court, Bikaner, it is clarified that relief so granted by the Judge, Labour Court may be granted to the non-petitioner workman, if he was possessing the qualification for promotion to the said post in accordance with the Rules.

With these observations, this petition is disposed of.

(GOPAL KRISHAN VYAS), J.

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